

REMARKS

Reconsideration of this application is respectfully requested in light of the foregoing amendments and the following remarks.

In the Office Action of May 3, 2005, the Examiner asserted that the arguments in Applicant's response to the Office Action of September 27, 2004, did not comply with 37 C.F.R. §1.111(b) and §1.111(c) because the arguments did not (i) clearly point out the patentable novelty of the claims presented in view of the state of the art disclosed by the references cited or the objections made or (ii) show how the amendments avoid such references or objections. The Applicant respectfully submits that the present response is compliant with 37 C.F.R. §1.111(b) and §1.111(c).

Turning now to the merits of the Office Action, the Office Action of May 3, 2005, rejected claims 1-3, 5-9, and 12-15 under 35 U.S.C. §102(b) as being anticipated by Parker (U.S. Patent No. 4,241,949). Further the Office Action objected to Claims 4 and 10, but indicated that Claims 4 and 10 would be acceptable if rewritten in independent form.

In order for a claim to be anticipated in a prior art reference, each and every element in the claim must be found, either expressly or inherently, in the prior art reference. *Manual of Patent Examining Procedure*, §2131, (May 2004). The Applicant respectfully submits that independent claims 1, 7, 12, and 14 have been amended to further clarify the distinguishable features of the present invention. More specifically, the Applicant has amended its claims to clarify that Applicant's recess is defined by "substantially only" two angularly converging platforms and that the lower rocking surface of Applicant's invention has a constant radius. Both of these features are in direct contrast to the Parker device.

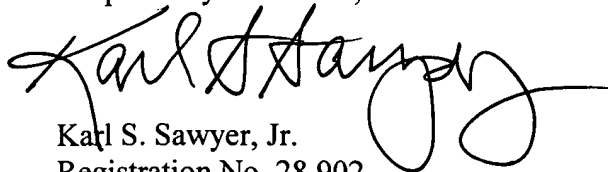
While the Office Action of May 3, 2005, asserts that Parker discloses a rocker device having a lower rocking surface, arcuately shaped on a flat surface and an upper platform surface having a recess defined by two platform surfaces fixedly attached between the lower rocking surface and the upper platform surface, the Applicant respectfully disagrees that Parker discloses Applicant's invention based on the foregoing amendments.

First, Parker does not disclose a recess that is defined by "substantially only" two platforms. As illustrated in Fig. 1 and Fig. 4 of Parker, it is readily apparent to one of ordinary skill in the art that the recess in Parker is defined by three platforms, rather than two platforms. Second, Parker does not disclose a rocking surface with a constant, nonvariable radius. Rather, Parker discloses in column 1, lines 42-45, a rocking surface made up of arcs of at least three different radii. Because of the fundamental structural differences between Applicant's invention and Parker as further clarified in the foregoing amendments, Applicant respectfully submits that Parker does not anticipate the present invention and, thus, does not provide a proper basis for rejecting claims 1, 7, 12 and 14. Hence, claims 1, 7, 12 and 14 now stand as patentable.

Since claims 1, 7, 12 and 14 are independent claims which now stand as patentable, all claims depending, directly or indirectly, from claims 1, 7, 12 and 14 should be patentable. Therefore, the Applicant respectfully submits that claims 2-6, 8-11 and 15 are in condition for allowance.

For all the foregoing amendments and remarks, the Applicant respectfully submits that the application as amended is patentable. Favorable reconsideration of this application and passage to issuance are respectfully requested.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'Karl Sawyer, Jr.', with a large, stylized loop at the end.

Karl S. Sawyer, Jr.
Registration No. 28,902
Kennedy Covington Lobdell & Hickman, L.L.P.
Hearst Tower - 47th Floor
214 North Tryon Street
Charlotte, North Carolina 28202
Telephone (704) 331-5792
-- Attorney for Applicant